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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/685,750	10/15/2003	Mark Budzik	TRI4546P0170US	6164
32116 7590 07/07/2008 WOOD, PHILLIPS, KATZ, CLARK & MORTIMER 500 W. MADISON STREET SUITE 3800 CHICAGO, IL 60661			EXAMINER SPAHN, GAY	
			ART UNIT 3635	PAPER NUMBER
			MAIL DATE 07/07/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/685,750

Applicant(s)

BUDZIK, MARK

Examiner

Gay Ann Spahn

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 October 2003 and 27 March 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) 11-32 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

**Reopening Prosecution After Board Decision**

PROSECUTION IS HEREBY REOPENED. A Non-Final Rejection on the merits is set forth below.

To avoid abandonment of the application, appellant must file a reply under 37 CFR 1.111.

A Technology Center Director has approved of reopening prosecution by signing below:

Kathy Matecki, Director of 3600 Technology Center

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

**Claim 10 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.**

Claim 10, lines 1-2, the recitation of "the polymeric material" is vague, indefinite, and confusing as lacking antecedent basis and the examiner suggests amending to --the cellular polymer--.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1-10 rejected under 35 U.S.C. 103(a) as being unpatentable over KOENIG, JR. ET AL. (U.S. Patent Application Publication No. 2002/0134035) in view of either ANSTADT ET AL. (U.S. Patent No. 4,141,944) or APPLICANT'S ADMISSION (see Applicant's specification, page 2, line 22 through page 3, line 4 and see also attached Business Journal article entitled "New Building Products Enter Regional Market" which dates Azek™ to at least July 25, 2003 and one page**

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of Azek™ website which dates Azek™ beadboard discussed in specification as far back as July 18, 2002 by attached internet archive Wayback Machine page).

As to claims 1, 3, 5, and 7, KOENIG, JR. ET AL. discloses a drywall-trimming accessory (10 in Fig. 1) having

either a flange (either of 30, 30) or two diverging flanges (30, 30),

the single flange (either of 30, 30) has or the two diverging flanges (30, 30) have two expansive surfaces (top and bottom surface of each of 30, 30) facing oppositely,

wherein the drywall-trimming accessory (10) is made of a polymeric material such as polyvinyl chloride (see the first sentence of paragraph no. [0011]).

KOENIG, JR. ET AL. fails to explicitly disclose that the drywall-trimming accessory is made from a cellular polymer, wherein any one of: (1) at least part of at least one of the expansive surfaces of the flange is characterized by open cells of the cellular polymer; (2) at least part of each expansive surface of the flange is characterized by open cells of the cellular polymer; (3) at least part of at least one of the expansive surfaces of each flange is characterized by open cells of the cellular polymer; and (4) at least part of each expansive surface of each flange is characterized by open cells of the cellular polymer.

ANSTADT ET AL. discloses an imitation wood workpiece or board (see Figs. 1 and 2) having an expanded or foamed cellular plastic core (1), wherein "relief embossing causes pores located in the vicinity of the texture furrows to break open outwardly; consequently, the surfaces at the bottom and the flanks of the texture furrows are more or less porous and rough" (see col. 2, lines 63-67). In addition, at col.

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4, lines 17-20, it states that "[a] desirably extensive irregularity of these ridges can be promoted through the breaking open of the foaming-agent containing pores in the ridges."

APPLICANT'S ADMISSION (and the supporting documentation of the Business Journal article entitled "New Building Products Enter Regional Market" which dates Azek<sup>TM</sup> to at least July 25, 2003 and one page of Azek<sup>TM</sup> website which dates Azek<sup>TM</sup> beadboard discussed in specification as far back as July 18, 2002 by attached internet archive Wayback Machine page) discloses that it is well known in the art to use AZEK<sup>TM</sup> beadboard as a building or trimming product which is made of cellular polyvinyl chloride, wherein at its cut edges and where such beadboard has been grooved, as by milling, open cells are visible, at least under low-power magnification via a jeweler's or watchmaker's loupe.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the trimming accessory of KOENIG, JR. ET AL. by making the trimming accessory be made from a cellular polymer, wherein at least part of at least one expansive surface or both of the expansive surfaces of at least one flange or both flanges is characterized by open cells of the cellular polymer as taught by either ANSTADT ET AL. or APPLICANT'S ADMISSION in order for the open cells of the expansive surfaces to better absorb and adhere drywall compound that is to be applied onto the expansive surfaces.

**As to claims 2, 4, 6, and 8, KOENIG, JR. ET AL. in view of either ANSTADT ET AL. or APPLICANT'S ADMISSION disclose the drywall-trimming accessory of claims 1,**

3, 5, and 7, respectively, as discussed above, and the resulting drywall-trimming accessory from the combination of KOENIG, JR. ET AL. in view of either ANSTADT ET AL. or APPLICANT'S ADMISSION also discloses that drywall-finishing compound is to be applied to at least one of the expansive surfaces or both expansive surfaces of at least one flange (30 of KOENIG, JR. ET AL.) or both the flanges (30, 30 of KOENIG, JR. ET AL.) and the drywall-finishing compound would clearly penetrate the open cells of the expansive surfaces of the flanges of the resulting trimming accessory from the combination of KOENIG, JR. ET AL. in view of either ANSTADT ET AL. or APPLICANT'S ADMISSION because it is notoriously well known that open-celled polymers or plastics are absorbent in order to absorb moisture, adhesives, paint, etc.

As to claim 9, KOENIG, JR. ET AL. in view of in view of either ANSTADT ET AL. or APPLICANT'S ADMISSION disclose the drywall-trimming accessory of any one of claims 1 through 8 as discussed above, and the resulting drywall-trimming accessory from the combination of KOENIG, JR. ET AL. in view of either ANSTADT ET AL. or APPLICANT'S ADMISSION also disclose that the trimming accessory is an elongate strip (see Fig. 1 of KOENIG, JR. ET AL. which clearly shows that the trimming accessory is an elongate strip).

As to claim 10, KOENIG, JR. ET AL. in view of either ANSTADT ET AL. or APPLICANT'S ADMISSION disclose the drywall-trimming accessory of claim 9 as discussed above, and the resulting drywall-trimming accessory from the combination of KOENIG, JR. ET AL. in view of either ANSTADT ET AL. or APPLICANT'S ADMISSION

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also discloses wherein the polymeric material is polyvinyl chloride (see col. 2, line 41 of ANSTADT ET AL. or page 2, line 24 of APPLICANT'S ADMISSION).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gay Ann Spahn whose telephone number is (571)272-7731. The examiner can normally be reached on Monday through Friday, 10:30 am to 7:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard E. Chilcot can be reached on (571)-272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



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/Gay Ann Spahn/  
Gay Ann Spahn, Primary Examiner  
June 30, 2008

A handwritten signature in black ink, reading "Katherine Matecki". The signature is written in a cursive, flowing style with a large initial "K".

APPROVED BY DIRECTOR  
KATHERINE MATECKI